

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

IN RE ZETIA (EZETIMIBE) ANTITRUST  
LITIGATION

This document relates to:

All Actions

MDL No. 2:18-md-2836

**PRETRIAL ORDER NO. 11**

The direct purchaser plaintiffs, end-payor plaintiffs, retailer plaintiffs, and new plaintiffs<sup>1</sup> and the defendants<sup>2</sup> in the above-referenced actions, through their respective counsel, hereby jointly stipulate as follows with respect to a schedule for discovery of the new plaintiffs and for all remaining pretrial deadlines for the parties proceeding to trial in April 2023, consistent with the Court's instruction during the July 22, 2022 status conference.

The parties shall adhere to the agreed upon dates in the following schedule. Should any future modification to the schedule become necessary in the view of any party, the parties shall confer and submit a request to the Court to amend the schedule on a joint or opposed basis, as appropriate.

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<sup>1</sup> The new plaintiffs are McKesson Corporation, AmerisourceBergen Corporation, AmerisourceBergen Drug Corporation, H.D. Smith, LLC, Smith Medical Partners, LLC, Valley Wholesale Drug Company, LLC, Cardinal Health, Inc., The Harvard Drug Group, L.L.C., Cardinal Health P.R. 120, Inc., Meijer, Inc., Meijer Distribution, Inc., SUPERVALU, Inc., Wegmans Food Markets, Inc., KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., MLI RX, LLC, Burlington Drug Company, Inc., Dakota Drug, Inc., J. M. Smith d/b/a Smith Drug Company, Louisiana Wholesale Drug Co., Inc., North Carolina Mutual Wholesale Drug Company, Prescription Supply, Inc., Value Drug Company, and Giant Eagle, Inc.

<sup>2</sup> The defendants are Merck & Co., Inc., Merck Sharp & Dohme LLC f/k/a Merck Sharp & Dohme Corp., Schering-Plough Corp., Schering Corp., MSP Singapore Co. LLC, Glenmark Pharmaceuticals, Ltd., and Glenmark Pharmaceuticals Inc., USA.

<b>Event</b>	<b>Date</b>
New Plaintiffs serve initial disclosures.	August 12, 2022
Defendants respond to second amended complaint filed by FWK Holdings, LLC et al.	August 15, 2022
Defendants respond to complaints filed by Burlington Drug Company, Inc. et al. and Giant Eagle, Inc.	September 6, 2022
New Plaintiffs substantially comply with discovery requests, including written responses and document productions.	September 30, 2022 <sup>3</sup>
New Plaintiffs serve damages expert reports, if any.	October 14, 2022
Deadline for Plaintiffs to disclose trial witness list pursuant to Rule 26(a)(3)(A)(i). <sup>4</sup>	October 28, 2022
Defendants serve responsive expert reports to New Plaintiffs' damages expert reports, if any.	November 14, 2022
New Plaintiffs advise which experts will be preparing rebuttal damages expert reports.	November 22, 2022
New Plaintiffs serve rebuttal damages expert reports.	December 6, 2022
Deadline to complete depositions of New Plaintiffs' and Defendants' experts. <sup>5</sup>	December 22, 2022
Parties exchange Rule 26(a)(3) disclosures other than those required to be disclosed on October 28.	January 9, 2023

<sup>3</sup> This deadline applies only to (i) the assignments and data the New Plaintiffs have already agreed to produce and (ii) the forecasts the Court ordered that they produce at the August 17, 2022 hearing on New Plaintiff discovery. Should the Court permit the Defendants to serve any additional discovery requests on the New Plaintiffs, the parties will confer in an effort to agree on the deadline to substantially comply with those discovery requests.

<sup>4</sup> The Court has ruled that Defendants will be permitted to depose witnesses disclosed by Plaintiffs pursuant to Rule 26(a)(3). The parties will confer in an effort to agree on a deadline by which to complete these depositions. Should the Court permit Defendants to take any other depositions, or should the parties agree to such depositions, the parties will similarly confer in an effort to agree on a deadline by which to complete those depositions.

<sup>5</sup> Both parties reserve their rights with respect to whether experts issuing two reports may be deposed twice or just once.

Event	Date
Parties file motions in <i>limine</i> .	January 17, 2023
Parties file oppositions to motions in <i>limine</i> .	January 30, 2023
Parties serve objections to Rule 26(a)(3) disclosures.	February 17, 2023
Attorneys conference.	February 14, 2023
Parties serve proposed draft of pretrial order.	February 21, 2023
Parties file proposed voir dire, jury instructions, trial briefs, and witness summaries.	February 28, 2023
Final pretrial conference.	March 22, 2023
Parties submit trial exhibits (original and two copies, bound, tabbed, numbered, and indexed) in binders per Local Rule 79.	April 7, 2023
Trial begins. <sup>6</sup>	April 10, 2023

**IT IS SO STIPULATED**, through counsel of record.

**SO ORDERED.**

Dated: October 26, 2022

/s/ [Signature]  
Rebecca Beach Smith  
Senior United States District Judge

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The Honorable Rebecca Beach Smith  
Senior United States District Judge

<sup>6</sup> On October 6, 2022, Glenmark filed a motion to modify the trial date in order to accommodate Glenmark's co-lead counsel's religious observance of Passover. As a result, the trial start date may change.

**WE ASK FOR THIS:**

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Valley Wholesale Drug Company, LLC, Cardinal Health,  
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Health P.R. 120, Inc., Meijer, Inc., Meijer Distribution,  
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Drug Co., Inc., North Carolina Mutual Wholesale  
Drug Company, Prescription Supply, Inc., Value  
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